ADDISONS

21 February 2018

Our Ref: JLH:HEM:LID001/4001

Planning Panels Secretariat
320 Pitt Street
Sydney NSW 2000

<u>**By Email Also:**</u>
enquiry@planningpanels.nsw.gov.au

Attention: Sydney Central City Planning Panel

Dear Secretariat

Development Application No: DA-423/2016 (DA)
Panel Reference: 2016SYW226 DA Mixed use development
18 – 24 Railway Street, Lidcombe (Property)

We act on behalf of Lidcombe 2 Pty Ltd in relation to the DA (**Applicant**).

The Cumberland Council (**Council**) has recommended the DA for approval, however proposes including the following as a condition of consent:

"*93.   Car Parking Allocation within Development*

A plan shall be provided as part of the Construction Certificate documentation indicating the location of car parking spaces and their allocation to individual units within the development. In this regard, a minimum of 158 car parking spaces are to be provided within the development as follows:

a)   Minimum 117 Residential spaces; including a minimum of 15 disabled spaces
c)   Minimum 30 visitor spaces; including disabled spaces
f)   Minimum 11 commercial/retail spaces".

The Applicant seeks that this condition be amended, as follows:

"*93.   Car Parking Allocation within Development*

A plan shall be provided as part of the Construction Certificate documentation indicating the location of 172 car parking spaces and their allocation to individual units within the development. In this regard, a minimum of ~~158~~ 140 car parking spaces are to be provided within the development as follows:

b)   Minimum 117 Residential spaces; including a minimum of 15 disabled spaces
d)   Minimum ~~30~~ 12 visitor spaces; including disabled spaces
f)   Minimum 11 commercial/retail spaces".

The reasons for the amendment to the recommended condition are set out below.

Background

The DA seeks approval of a mixed use development comprising 147 apartments, 7 commercial/retail tenancies at ground level and 3 levels of basement car parking. The apartments comprise 55 x 1 bedroom apartments, 90 x 2 bedroom apartments and 2 x 3 bedroom apartments. The Property is located within 200m of Lidcombe railway station.

The DA proposes providing 172 car parking spaces, comprising:

- 149 parking spaces for residents (allocated as 1 car parking space per one and two bedroom apartment, and 2 car parking spaces per three bedroom apartment);

- 12 parking spaces for visitors; and

- 11 parking spaces for commercial tenants.

Applicable controls relating to parking requirements

SEPP 65 and the ADG

State Environmental Planning Policy 65 - Design Quality of Residential Apartment Development (**SEPP 65**) applies to the DA. The proposed development is a new mixed use development with a residential component, has more than 3 storeys and contains more than 4 dwellings (clause 4 SEPP 65).

Pursuant to SEPP 65, in determining the DA, the consent authority must take into consideration the Apartment Design Guide (**ADG**) (clause 28(2) of SEPP 65).

Objective 3J-1 of the ADG states that for sites within 800m of a railway station in the Sydney Metropolitan Area (which includes the Property):

> "the **minimum** car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, **whichever is less**." (emphasis added)

The RMS Guide to Traffic Generating Developments

Section 5 of the Roads and Maritime Services Guide to Traffic Generating Developments (**RMS Guide**) deals with "*Parking Requirements for Specific Land Uses*".

In respect of high density residential flat buildings (being a building containing 20 or more dwellings, which may contain a component of commercial use), clause 5.4.3 of the RMS Guide states that for Metropolitan Sub-Regional Centres:

"*The recommended minimum number of off-street resident parking spaces is as follows:*

- *0.6 spaces per 1 bedroom unit.*

- *0.9 spaces per 2 bedroom unit.*

- *1.40 spaces per 3 bedroom unit.*

- *1 space per 5 units (visitor parking)*".

Auburn Development Control Plan 2010

Auburn Development Control Plan 2010 (**ADCP**) provides at paragraph 5.1.5 that the number of car parking spaces for development in the B4 Mixed Use zone within 1000m of a railway station in the Lidcombe Town Centre shall comply with the following minimum car parking requirements:

No. of Bedrooms	Minimum	Maximum
Studio/1 bedroom	1.0 parking space	1.0 parking space
2 bedrooms	1.2 parking spaces	3.0 parking spaces
3 bedrooms	1.5 parking spaces	4.0 parking spaces
Visitor car parking area		
101 - 250 units	12.0 parking spaces	55.0 parking spaces

Calculation of minimum parking requirements

Design Criteria 1 of Objective 3J-1 of the ADG refers to the minimum car parking requirements for residents and visitors rather than minimum car parking requirements for both visitor and resident parking calculated as a combined total.

This means that visitor and resident parking rates should be calculated separately by reference to this clause; in each instance, adopting the lesser requirements either pursuant to the RMS Guide, or the ADCP, as required.

This interpretation is supported by the following:

1.   Section 5.1.5 of the ADCP states that *"Resident, visitor and commercial/retail area car parking calculations are to be rounded up separately"*; and

2.   Section 5.4.3 of the RMS Guide specifically envisages a situation in which a council may wish to reduce the requirement for visitors parking for development located in close proximity to public transport, or where short term leasing is expected.

Section 5.4.3 states:

"The recommended minimum number of off-street visitor parking spaces is one space for every 5 to 7 dwellings. Councils may wish to reduce this requirement for buildings located in close proximity to public transport, or where short term unit leasing is expected."

In accordance with Objective 3J-1 of the ADG, in adopting the lesser requirements for each of resident and visitor parking, the applicable **minimum** car parking requirements in relation to the DA are as follows:

1. Resident parking: minimum of 117 parking spaces pursuant to the RMS Guide (rather than the 166 spaces required pursuant to the ADCP);

2. Visitor parking: a total of 12 parking spaces pursuant to the ADCP (rather than the 30 spaces required pursuant to the RMS Guide);

3. Commercial parking: a total of 11 spaces are required pursuant to the ADCP (both the ADG and the RMS Guide do not apply to the DA in respect of commercial parking requirements).

In relation to the Council's proposed condition 93, the calculation of the minimum parking spaces for residents and visitors is incorrectly based solely on the minimum requirements set out in the RMS Guide. This is presumably on the basis that the **combined** total minimum requirements for resident and visitor parking spaces is lower pursuant to the RMS Guide (being a total of 147 parking spaces) rather than the ADCP (which would require a total of 166 parking spaces).

Instead, in our submission, the correct approach pursuant to Objective 3J-1 of the ADG is to calculate the resident and visitor minimum requirements **separately** and apply the lesser requirement for each independently.

Further, we submit that the proposed minimum visitor car parking provision contained in the DA meets Objective (a) of Section 5.1 of the ADCP, being "*To provide sufficient vehicular access and car parking on-site to meet user demand*". This is also in line with the "*Basis of recommended parking provisions*" contained in Section 5.2 of the RMS Guide, being that "*Adequate off-street parking is the main criterion in the assessment of parking areas provided for developments*".

To impose the higher visitor car parking requirements contained in the RMS Guide does not comply with the requirement of the ADG to apply the lesser visitor parking rate. The applicable objectives are achieved by applying both the RMS Guide and the ADCP rates as set out above, given the Property is in very close proximity to a well serviced train station.
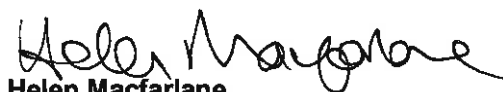
For commercial reasons, the Applicant proposes to provide additional resident car parking to satisfy consumer expectations and demand so that each one and two bedroom apartment can be allocated one car parking space, and three bedroom apartments can be allocated two parking spaces.

This provision does not exceed the maximum parking space requirements for residents as set out in the ADCP and no maximum requirement is specified in the RMS Guide in respect of resident parking[1].

Conclusion

In light of the above calculation of the minimum parking spaces required, adopting the lesser rates for resident and visitor parking, condition 93 should be amended as set out above.

Yours sincerely

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cc. The General Manager, Cumberland Council

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[1] For the DA, the maximum parking requirements pursuant to the ADCP would be 55 parking spaces for the 1 bedroom apartments, 270 parking spaces for the 2 bedroom apartments (not 165 as stated on the Council Report) and 8 parking spaces for the 3 bedroom apartments).